



# BRP WW 04 Request for Determination of Applicability

Massachusetts Public Waterfront Act (M.G.L. Chapter 91)

## Instructions for Completing Application BRP WW 04

### How to Apply:

#### 1. What is the purpose of this determination?

This is a determination as to whether a Waterways license or other authorization is required for a project under 310 CMR 9.00, the regulations which implement MGL Chapter 91, the Public Waterfront Act. Authorization must be obtained for the placement of structures and fill, changes in use of existing licensed structures and fill, and dredging in current and certain former state waterways, as required under 310 CMR 9.02-9.05.

It is not necessary to file a Request for Determination of Applicability. See Question #2.

#### 2. Who must apply?

This determination is intended to answer with certainty whether a Waterways license or other authorization is required. It is not required that any person potentially subject to the provisions of Chapter 91 apply for a Determination of Applicability. However, if your project (existing or proposed) requires a Waterways license or other authorization, but you fail to obtain one, you may be subject to penalties and/or removal of the project. If a completed Request for Determination of Applicability is filed, the Department of Environmental Protection will issue a Determination of Applicability, which can be recorded with the land owner's property deed.

#### 3. What other requirements should be considered when applying for this determination?

**Note:** Projects of this type may require MEPA review. Please carefully examine 301 CMR 11.00, the MEPA Regulation, to determine if your project exceeds the MEPA review thresholds, or for more information contact the MEPA Unit of the Executive Office of Environmental Affairs (617-626-1020). **MassDEP cannot begin technical review of the permit application until the MEPA process has been completed, unless otherwise agreed to in writing.** Copies of MEPA filings (with reference to any applicable Transmittal numbers) should be sent to the appropriate program offices in Boston and the MEPA Coordinator in the appropriate Regional Office.

#### 4. What is the application fee?

The application fee is \$85.

#### 5. What is the Primary Permit Location? What is the Reserve Copy Location?

PRIMARY PERMIT LOCATION  
Department of Environmental Protection  
Waterways Regulation Program  
1 Winter Street  
Boston, MA 02108

RESERVE PERMIT LOCATION  
None.

*At the same time, you must send copies of this same material to all persons identified in 310 CMR 9.13(1)(a).*

#### 6. What are the timelines?

As of July 1, 2000 the timelines are:

|           | AC | T1 | T2* | PC |    |
|-----------|----|----|-----|----|----|
| BRP WW 04 |    | 30 | 60  | 60 | 21 |

\* A second technical review will only be conducted if necessary.

#### 7. What is the annual compliance fee?

There is no annual compliance fee.

#### 8. How long is this determination in effect?

There is no period of time specified for the validity of a Determination of Applicability. Under 310 CMR 9.06, the Determination can effectively expire if circumstances affecting the site location, activity occurring on the site, to the Waterways regulations themselves should change. Otherwise, the Determination would remain valid indefinitely.



Massachusetts Department of Environmental Protection

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### **9. How can I avoid the most common mistakes made in applying for this determination?**

- a. Follow the plan specification in the application form.
- b. Submit fee and the MassDEP Transmittal Form: <http://mass.gov/dep/service/online/trasmfrm.shtml> to:

Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211

### **10. What are the regulations that apply to this determination? Where can I get copies?**

These regulations include, but are not limited to:

- a. Waterways regulations, 310 CMR 9.00.
- b. Timely Actions and Fee Provisions 310 CMR 4.00
- c. Administrative Penalties Regulations 310 CMR 5.00

These may be purchased at:

State House Bookstore  
Room 116  
Boston, MA 02133

State House West Bookstore  
21 Elm Street  
Springfield, MA 01103

They may also be available at the MassDEP website:  
[www.mass.gov/dep](http://www.mass.gov/dep)



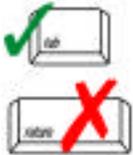
**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Waterways  
**BRP WW 04 Request for Determination of Applicability**

Transmittal Number

**Request for Determination of Applicability**

I, the undersigned, hereby request that the Department of Environmental Protection make a determination as to whether MGL Chapter 91, the Public Waterfront Act, and the regulations implementing that Act, 310 CMR 9.00, presently apply to the area of land, water, or activity thereon described below.

**Important:**  
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

\_\_\_\_\_  
 Name

\_\_\_\_\_  
 Mailing Address

\_\_\_\_\_  
 City/Town                      County                      State                      Zip Code

(     )                      -                      ext.

\_\_\_\_\_  
 Day Telephone #

2. Property Information (all information must be provided):

\_\_\_\_\_  
 Owner Name (if different from applicant)

\_\_\_\_\_  
 Tax Assessor's Map and Parcel Numbers

\_\_\_\_\_  
 Location (street address)                      City/Town

\_\_\_\_\_  
 County                      Zip Code                      Longitude                      Latitude

3. Name of the water body:

\_\_\_\_\_

4. Summary of the Project/Activity:

\_\_\_\_\_

\_\_\_\_\_

5. Detailed description of existing and/or proposed fill, structure, dredging or uses(s) (attach additional paper, if necessary and see #6 for plan requirements):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Massachusetts Department of Environmental Protection  
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**Request for Determination of Applicability Cont.**

6. Attached is a plan or plans showing:
  - a. an appropriately scaled site location map;
  - b. references to any previous Chapter 91 licenses, permits or other authorizations for existing structures, fill, or dredging at the site, including the license number(s) and the date(s) the license(s) was recorded at the Registry of Deed or Land Court;
  - c. appropriately scaled principal dimensions and elevations of proposed and existing fill, structures, or dredging in waterways;
  - d. any historic dredging, filling, or impoundment at the site; and
  - e. a delineation of the present high and low water marks, and the historic high and low water marks.Please note the source information for all items provided in Section 6.
  
7. At the same time that this request was submitted to the Department of Environmental Protection, I submitted copies of it to all persons identified in 310 CMR 9.13(1)(a), and have attached their names and addresses to this form.
  
8. I understand that the Department of Environmental Protection may, at its discretion, require that a public hearing be held and that a newspaper notice be published at my expense regarding this request.
  
9. I understand that any person may submit written comments to the Department of Environmental Protection on this request within twenty-one (21) days of the date the request is received by the Department or the newspaper notification date, if applicable. I hereby certify under the pains and penalties of perjury that the foregoing statements, information and accompanying material are true and complete to the best of my knowledge.

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Applicant's signature

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Applicant's Name